



Billing Code 6355-01-P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Chapter II

[Docket No. CPSC-2015-0002]

Notice of Determination Under the Drywall Safety Act of 2012

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of determination.

SUMMARY: The Consumer Product Safety Commission (CPSC, or Commission) is announcing that, pursuant to the requirements of the Drywall Safety Act of 2012 (DSA), the Commission has determined that: ASTM C1396-14a, “Standard Specification for Gypsum Board,” is a voluntary standard for drywall manufactured or imported for use in the United States that limits sulfur content to a level not associated with elevated rates of corrosion in the home; ASTM C1396-14a became effective less than two years after the enactment of the DSA; and ASTM C1396-14a was developed by Subcommittee C11.01 on Specifications and Test Methods for Gypsum Products of ASTM International. Based on these determinations, the sulfur content limit in ASTM C1396-14a shall be treated as a consumer product safety rule promulgated under the Consumer Product Safety Act (CPSA). Drywall manufactured or imported for use in the United States shall be subject to the general conformity certification (GCC) requirements of the CPSA.

DATES: This action becomes effective on [INSERT DATE 180 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Rohit Khanna, Office of Hazard Identification and Reduction, U.S. Consumer Product Safety Commission, 5 Research Place,

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SUPPLEMENTARY INFORMATION:

I. Background

CPSC began investigating drywall in 2009, after reports from homeowners that they were seeing corrosion of metal items inside their homes. According to homeowners' reports, the items primarily involved were electrical fixtures, appliances, plumbing, and air conditioner coils. CPSC used the term "problem drywall" to refer to drywall associated with elevated rates of metal corrosion. After CPSC's initial investigations, CPSC joined with the U.S. Department of Housing and Urban Development (HUD), the U.S. Centers for Disease Control and Prevention (CDC), and the U.S. Environmental Protection Agency (EPA) to form the Federal Interagency Task Force on Problem Drywall (Task Force).

In the course of this investigation, samples of problem drywall were analyzed for chemical content and emissions. CPSC staff analysis of chemical content and emissions from problem drywall determined that certain brands of drywall produced around the year 2006 contain elevated levels of elemental sulfur (octahedral sulfur, S_8) and have elevated emission factors for hydrogen sulfide (H_2S) and other reactive sulfur gases known to corrode materials containing copper and silver. CPSC staff's analysis of the technical data also determined that the presence of elemental sulfur in excess of 10 ppm in drywall is associated with elevated emission factors for hydrogen sulfide (H_2S) and other reactive sulfur gases that are known to cause accelerated corrosion of copper and silver in homes.

CPSC staff and HUD relied on the results of this analysis to develop guidance materials to help homeowners identify homes with problem drywall and to correct the problem by

removing and replacing the problem drywall and certain other components of the home. These guidance documents are available on CPSC's website.¹

II. The Drywall Safety Act of 2012

On January 14, 2013, the President signed the Drywall Safety Act of 2012 (DSA) into law. Pub. L. 112-266, 126 Stat. 2437 (2013). The DSA established several requirements related to problem drywall.

The Drywall Labeling Requirement. The DSA states that 180 days after the date of enactment of the DSA, the gypsum board labeling provisions of standard ASTM C1264-11² must be treated as a rule promulgated by CPSC under section 14(c) of the CPSA. ASTM uses the more technical term "gypsum board" to refer to the class of products that CPSC refers to as "drywall." The labeling provisions in ASTM C1264-11 are currently in effect as a CPSC mandatory standard. The DSA provides a process for revision of the CPSC standard if ASTM revises the labeling provisions in the ASTM standard and notifies the Commission of the revision. To date, although ASTM has revised some provisions in ASTM C1264-11, ASTM has not revised the labeling provisions.

Revision of Remediation Guidance for Drywall Disposal Required. The DSA requires the CPSC to revise CPSC's guidance entitled "Remediation Guidance for Homes with Corrosion from Problem Drywall" to specify that problem drywall removed from homes pursuant to the guidance should not be reused or used as a component in the production of new drywall. CPSC

¹ Identification Guidance for Homes with Corrosion from Problem Drywall as of March 18, 2011, by the U.S. Consumer Product Safety Commission and the U.S. Department of Housing and Urban Development <http://www.cpsc.gov/PageFiles/115328/IDguidance031811.pdf>. Remediation Guidance for Homes with Corrosion from Problem Drywall as of March 15, 2013, by the U.S. Consumer Product Safety Commission and the U.S. Department of Housing and Urban Development <http://www.cpsc.gov/Global/Safety%20Education/Safety-Information-Centers/Drywall/remediation031513.pdf>.

² Standard Specification for Sampling, Inspection, Rejection, Certification, Packaging, Marking, Shipping, Handling, and Storage of Gypsum Panel Products.

revised the Remediation Guidance as directed when CPSC published a new Remediation Guidance on the CPSC website on March 15, 2013.

Sulfur Content Standard Requirement. The DSA requires CPSC to promulgate a final rule pertaining to drywall manufactured or imported for use in the United States within two years of the date of enactment of the DSA. The rule must limit sulfur content “to a level not associated with elevated rates of corrosion in the home.” As discussed below, the rulemaking requirement does not apply if the Commission makes certain determinations regarding an ASTM voluntary standard and publishes the determinations in the *Federal Register*. With this document, the Commission makes the necessary determinations.

III. Standard for Sulfur Content in Drywall

A. Determination

Section 4(a) of the DSA requires the Commission to promulgate a final rule limiting sulfur content in drywall manufactured or imported for use in the United States “to a level not associated with elevated rates of corrosion in the home.” The rulemaking requirement does not apply if the Commission determines that:

- (a) a voluntary standard pertaining to drywall manufactured or imported for use in the United States limits sulfur content to a level not associated with elevated rates of corrosion in the home;
- (b) the voluntary standard is in effect within two years of enactment the DSA; and
- (c) the voluntary standard is developed by ASTM International’s Subcommittee C11.01 on Specifications and Test Methods for Gypsum Products.

Id. 4(c).

If the Commission makes such determinations, the sulfur content limit in the voluntary standard pertaining to drywall manufactured or imported for use in the United States “shall be treated as a consumer product safety rule under section 9 of the Consumer Product Safety Act.”

Id. 4(d).

The Commission determines that the sulfur limit stated in section 4.7 of ASTM C1396-14a, *Standard Specification for Gypsum Board*, meets the requirements of section 4(c) of the DSA. CPSC staff worked with the relevant ASTM Subcommittee (ASTM Subcommittee C11.01 on Specifications and Test Methods for Gypsum Products) to develop a test method for elemental sulfur in gypsum products. The test method is stated in ASTM Standard C471M, Test Methods for Chemical Analysis of Gypsum and Gypsum Products (Metric). ASTM Subcommittee C11.01 then worked with CPSC staff to develop a requirement stated in section 4.7 of ASTM C1396-14a limiting the sulfur content of gypsum board. That provision requires that gypsum board must contain not greater than 10 ppm of orthorhombic cyclooctasulfur (i.e., elemental sulfur or “S₈”) when tested in accordance with the test methods for Determination of S₈ in Gypsum Panel Products by Liquid Extraction for Analysis by Liquid or Gas Chromatography in sections 55-65 of ASTM C471M.

In accordance with section 4(c) of the DSA, ASTM C1396-14a is a voluntary standard pertaining to drywall manufactured or imported for use in the United States stating that gypsum board (drywall) “shall contain not greater than 10 ppm of orthorhombic cyclooctasulfur (S₈).” As discussed in the staff’s briefing memorandum,³ this limit on sulfur content is consistent with CPSC staff’s numerous corrosion studies, which showed an association between high levels of

³ Drywall Safety Act of 2012; Briefing Memorandum for Draft Federal Register Notice, Sulfur Content in Drywall Standard <http://www.cpsc.gov/Global/Newsroom/FOIA/CommissionBriefingPackages/2015/Drywall-Safety-Act-FR-Notice-Sulfur-Content-in-Drywall-Standard.pdf>.

elemental sulfur (S₈) in drywall and corrosion in the home, but no association between sulfur levels that did not exceed 10 ppm and elevated corrosion.

ASTM C1396-14a was published and became effective October 14, 2014, less than two years after enactment of the DSA. Finally, ASTM C1396-14a was developed by Subcommittee C11.01 on Specifications and Test Methods for Gypsum Products of ASTM International.

Based on these determinations the Commission finds that the requirements of section 4(c) of the DSA have been met. Accordingly, the sulfur content limit requirement stated in section 4.7 of ASTM C1396-14a is a consumer product safety rule under the CPSA.

B. Effective Date and Certification

DSA section 4(d) provides that if the Commission determines that a voluntary standard meets the requirements of section 4(c) of the DSA, the sulfur content limit stated in the voluntary standard shall be treated as a consumer product safety rule beginning on the later of:

- 180 days after publication of the Commission's determination; or
- the effective date stated in the voluntary standard.

ASTM C1396-14a took effect when the standard was published on October 14, 2014. Therefore, the sulfur content limit stated in ASTM C1396-14a shall be treated as a consumer product safety rule effective 180 days after publication of this determination in the *Federal Register*.

Section 14(a)(1) of the CPSA requires that every manufacturer of a product that is subject to a consumer product safety rule and is imported into or distributed in the United States must certify that the product complies with all applicable CPSC rules, rules, bans, standards, or regulations. 15 U.S.C. 2063(a)(1). As a product subject to a consumer product safety rule, drywall imported into or distributed in the United States will be subject to the certification

requirements of section 14(a)(1) of the CPSA (15 U.S.C. 2063(a)(1)) and the Commission's certification regulations at 16 CFR part 1110 once the voluntary standard sulfur limit requirement is in effect as a consumer product safety standard. Drywall manufactured or imported on or after the effective date must comply with the sulfur content limits of ASTM C1396-14a and must be accompanied by a general certification of compliance (GCC).

Alberta E. Mills,
Acting Secretary,
Consumer Product Safety Commission.

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